

REMARKS

Claims 1-24 are pending in this application.

The Examiner has required restriction of the claims as follows:

Group	Claims	Description
I	1-8	Drawn to a food product which comprises Phleum
II	9-10	Drawn to a method of producing gluten-free food products comprising Timothy grass (Phleum)
III	11-14	Drawn to a method of making risen bread and flat bread products including the products themselves comprising Timothy grass
IV	15-16	Drawn to a method of making extruded cereal product comprising Timothy grass and the product itself
V	17-19	Drawn to a method of making malt extract for brewing comprising Timothy grass and the product itself
VI	20-22	Drawn to a method of making a food product comprising Timothy grass and the food product thereof
VII	23-24	Drawn to a method of making fermented breads comprising Timothy grass and the product thereof

Applicants elect **Group I**, without traverse.

Additionally, Applicants wish to remind the Examiner that MPEP §821.04 allows for rejoinder of claims to a nonelected invention that depends from or otherwise requires all the limitations of an allowable claim. Process claims in Group II to Group VII (claims 9 to 24), as drafted, incorporate all the limitations of composition claim 1, and therefore meet the requirements of MPEP §821.04. Therefore, Applicants respectfully request that the Examiner rejoin these claims upon allowance the composition claims. Applicants also reserve the right to pursue claims drawn to the subject matter of Group II to Group VII in one or more divisional application(s).

In view of the foregoing, Applicant respectfully submits that no further impediments exist to the allowance of this application and, therefore, requests an indication of allowability. However, the Examiner is requested to call the undersigned if any questions or comments arise.

CONCLUSION

This reply is fully responsive to the Requirement for Restriction mailed March 24, 2009. Therefore, prompt and favorable examination of the elected invention is respectfully requested.

Except for issue fees payable under 37 CFR §1.18, the commissioner is hereby authorized by this paper to charge any additional fees during the pendency of this application including fees due under 37 CFR §1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-1283. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).


If the Examiner has any further questions relating to this Reply or to the application in general, he is respectfully requested to contact the undersigned by telephone so that allowance of the present application may be expedited.

Dated: October 6, 2009

COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
777 6th Street NW, Suite 1100
Washington, DC 20001
Tel: (202) 842-7800
Fax: (202) 842-7899

Respectfully submitted,
COOLEY GODWARD KRONISH LLP

By:



Erich E. Veitenheimer, Ph.D
Reg. No. 40,420